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Remarks

Claims 1-117 are pending in the application. Claims 1, 26 and 114 are currently amended.

Rejection of Claims 1-117 Under 35 U.S.C. § 101.

Claims 1-117 were rejected under 35 U.S.C. § 101 for allegedly being directed to non-statutory subject matter, Office Action ("OA"), p. 2. The Examiner stated that a process claim must "apply, involve, use, or advance the technological arts" and advised Applicants to imbed a computer or processor in the body of the claims. *Id.*

With respect to claims 1-53 and 114-117, claims 1, 26 and 114 have been amended to include the limitation, "wherein said method is implemented on a computerized system." Applicants respectfully submit that amended claims 1, 26 and 114 meet the statutory requirements of 35 U.S.C. § 101. Claims 2-25 depend from claim 1, claims 27-53 depend from claim 26, and claims 115-117 depend from claim 114. Therefore, claims 2-25, 27-53 and 115-117 also meet the statutory requirements of 35 U.S.C. § 101.

Regarding claims 54-113, the Examiner alleged that a claim must "apply, involve, use, or advance the technological arts" in order to meet the statutory requirements of 35 U.S.C. § 101. OA, p. 2. Independent claims 54 and 85 each contain a number of limitations showing that these claims relate to the technological arts. For example, both claims recite "a communication network" and "a plurality of user terminals connected to said communications network." These limitations indicate that claims 54 and 85 recite statutory subject matter under 35 U.S.C. § 101. Claims 55-84 and 86-113 depend from claims 54 and 85, respectively. Therefore, claims 55-84 and 86-113 also recite statutory subject matter.

Applicants respectfully submit that claims 1-117 are directed to statutory subject matter and request that the Examiner remove the rejection of claims 1-117 under 35 U.S.C. § 101.

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Rejection of Claims 1-117 Under 35 U.S.C. § 102(e).

Claims 1, 26, 54, 85 and 114 are independent. Claims 2-25, 27-53, 55-84, 86-113 and 115-117 depend from claims 1, 26, 54, 85 and 114, respectively. Claims 1-117 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,513,020 to Weiss, *et al.*, ("Weiss"). OA, p. 2. However, in order for Weiss to anticipate claims 1-117, Weiss must teach every element of each of claims 1-117. See MPEP § 2131; *see also, Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Applicants respectfully contend that Weiss does not teach every element of each of claims 1-117.

Claims 1-25

Claim 1 recites a "method for permitting a company to sell UPA's." As disclosed in the specification of the current application, UPA's are *underperforming assets* "which are typically out of fashion, obsolete, and time sensitive items close to their usage or expiration date whose value in liquidation would be significantly below cost or book value." Application, para. [0002]. Examples of UPA's include: "apparel, machinery, computers, pharmaceuticals, furniture, film, etc." *Id.* Claimed embodiments of the Applicants' invention provide a way for companies to sell these UPA's.

The Examiner alleges that Weiss discloses each limitation of claim 1 and refers to Weiss, cols. 1-7, ll. 1-67. However, Weiss makes no mention whatsoever of UPA's. Instead, Weiss relates to *proxy assets*. Proxy assets are a "kind of security that is designed to make effectively tradable existing broad categories of illiquid assets or claims on income flows, assets or claims that are individually difficult or impossible to buy, hold, or sell directly." Weiss, col. 1, ll. 19-23. Examples of illiquid assets that may be the basis of proxy assets include: "privately held or infrequently traded corporate stocks, infrequently traded bonds, ships and aircraft, rare coins, precious gemstones, masterpiece paintings, livestock, and thoroughbreds." *Id.*, col. 1, ll. 39-44. Weiss essentially provides a way for investors to own "stock" in an illiquid asset that they would not normally purchase in its entirety. Accordingly, Weiss and the presently claimed embodiments are unrelated.

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Weiss does not disclose every limitation of the claim 1. Specifically, Weiss does not disclose at least the following limitations:

transferring UPA's from said company to a second party in return for a cash
and/or asset payment;

said company obligating itself to earn a variable number of consumption points over an
agreed to consumption period by making future purchases of assets, each purchase
having a respective number of consumption points associated therewith.

Because Weiss does not disclose every limitation of claim 1, Weiss cannot anticipate claim 1 under 35 U.S.C. § 102(e). Applicants respectfully submit that claim 1 is allowable. Claims 2-25 depend from claim 1 and are allowable for at least the reasons that claim 1 is allowable.

Claims 26-53

Claim 26 recites a "method for permitting a company to sell UPA's." The Examiner alleges that Weiss discloses each limitation of claim 26. OA, p. 4. As discussed above with respect to claims 1-25, Weiss does not relate to UPA's. Therefore, Weiss does not disclose every limitation of the claim 26. Specifically, Weiss does not disclose at least the following limitations:

transferring UPA's from said company to a second party in return for a cash payment
from a financial institution;

said company obligating itself to earn a variable number of consumption points over an
agreed to consumption period by making future purchases of assets, each purchase
having a number of consumption points associated therewith;

said financial institution receiving a percentage of each purchase of said assets during
said consumption period.

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Because Weiss does not disclose every limitation of claim 26, Weiss cannot anticipate claim 26 under 35 U.S.C. § 102(e). Applicants respectfully submit that claim 26 is allowable. Claims 27-53 depend from claim 26 and are allowable for at least the reasons that claim 26 is allowable.

Claims 54-84

Claim 54 recites "An electronic marketplace enabling companies to enter into deals for the sale of their UPA's." The Examiner alleges that Weis anticipates each limitation of claim 54. OA, pp. 5-6. As discussed above, Weiss does not relate to UPA's, and, more specifically, Weiss does not disclose at least the following limitations of claim 54:

a plurality of user terminals connected to said communication network whereby a plurality of companies and one or more UPA buyers can communicate with said marketplace administration system over said communication network;

said marketplace administration system presenting a plurality of trading sites to at least some users of said user terminals, said user sites including:

one or more UPA trading sites at which said companies can offer to sell their UPA's to one or more of said UPA buyers, whereby deals can be entered into between said companies and said UPA buyers and relevant parameters of said deals can be entered into said market administration system; and

one or more sales sites at which said companies can purchase said assets, said sales sites providing an indication of both the price of each said asset and the number of consumption points to be awarded upon the purchase of each said asset.

Because Weiss does not disclose every limitation of claim 54, Weiss cannot anticipate claim 54 under 35 U.S.C. § 102(e). Applicants respectfully submit that claim 54 is allowable. Claims 55-84 depend from claim 54 and are allowable for at least the reasons that claim 54 is allowable.

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Claims 85-113

Claim 85 recites "An electronic marketplace enabling companies to enter into deals for the sale of their UPA's." The Examiner alleges that Weiss anticipates each limitation of claim 85. OA, pp. 8-9. As discussed above, Weiss does not relate to UPA's, and, more specifically, Weiss does not disclose at least the following limitations of claim 85:

a plurality of user terminals connected to said communication network whereby a plurality of companies and one or more UPA buyers can communicate with said marketplace administration system over said communication network;

said marketplace administration system presenting a plurality of trading sites to at least some users of said user terminals, said user sites including:

one or more UPA trading sites accessible to said companies, said financial institution and said UPA buyers and at which said companies can offer to sell their UPA's to one or more of said UPA buyers, the deal being financed by said financial institution, whereby deals can be entered into between said companies, said financial institution and said UPA buyers and relevant parameters of said deals can be entered into said market administration system; and

one or more sales sites at which said companies can purchase said assets, said sales sites providing an indication of both the price of each said asset and the number of consumption points to be awarded upon the purchase of each said asset.

Because Weiss does not disclose every limitation of claim 85, Weiss cannot anticipate claim 85 under 35 U.S.C. § 102(e). Applicants respectfully submit that claim 85 is allowable. Claims 86-113 depend from claim 85 and are allowable for at least the reasons that claim 85 is allowable.

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Claims 114-117

Claim 114 recites a "method for permitting a company to sell UPA's." The Examiner alleges that Weiss discloses each limitation of claim 114. OA, p. 10. As discussed above, Weiss does not relate to UPA's. Therefore, Weiss does not disclose every limitation of the claim 114. Specifically, Weiss does not disclose at least the following limitations:

transferring UPA's from said company to a second party in return for a cash and/or asset payment;

said company obligating itself to make future purchases of assets, wherein the amount of future purchases is variable.

Because Weiss does not disclose every limitation of claim 114, Weiss cannot anticipate claim 114 under 35 U.S.C. § 102(e). Applicants respectfully submit that claim 114 is allowable. Claims 115-117 depend from claim 114 and are allowable for at least the reasons that claim 114 is allowable.

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Conclusion

Applicants believe that all rejections in the Office action have been addressed by the amendments and remarks above. If there are any questions concerning this Response, Applicants would welcome a telephone call or interview with the Examiner and the undersigned Applicants' representative.

No fee is believed to be due in conjunction with this amendment. If any fees are due, the Commissioner is authorized to debit those fees from the undersigned's Deposit Account No. 50-0206.

Respectfully submitted,

HUNTON & WILLIAMS

Dated: August 30, 2005

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